



Case No.: SJKIM-002US
Patent Application
Certificate of Mailing:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Sung-Jin Kim)
Serial No.: 10/080,052) Group No.:
Filed: February 21, 2002) 1651
For: COMPOSITION CONTAINING ASIASARI)
RADIX EXTRACTS FOR PROTECTING)
BRAIN CELLS AND IMPROVING)
MEMORY)

)

DECLARATION UNER 37 C.F.R. § 1.132 OF
SUNG-JIN KIM, PH.D.

Commissioner of Patents
Alexandria, VA 22313-1450

Dear Sir/Madam:

I, Sung-Jin Kim, Ph.D., hereby declare as follows:

1. I am the sole inventor of the above-identified patent application.

2. Currently, I am an Associate Professor at Kyung Hee University, a well respected national university located in Seoul, South Korea. In addition to my role as a professor, I am also the Chair of its Department of Pharmacology.

3. I have closely reviewed and examined the U.S. Patent No. 5,889,046 ("the '046 patent") and the Derwent English abstract of Japanese Patent Application No. 05178793 ("the '793 application"). It is my understanding that the United States Patent and Trademark Office is presently citing those references as anticipating and/or obviating the above-identified patent application.

4. Based upon my thorough review and examination of the '046 patent and the '793 application, it is my solemn belief that the final products resulting from those references are significantly distinguishable from the final product depicted in the above-identified patent application through the respective use of different procedures for different objectives.

5. In the above-identified patent application, the resulting Asiasari Radix extracts were derived from specific procedures which were not used or contemplated in the noted prior art references. Among other procedures, the resulting extracts described in the above-identified patent application were: (1) Subjected to multiple pH adjustments with an acid (to pH 2-4) and a base (to pH 9-12); (2) extracted with a chlorinated aliphatic solvent such as chloroform; and (3) fractionated with a methanol.

6. By utilizing such specific modes of procedure, the resulting Asiasari Radix extracts described in the above-identified patent application are specifically intended for improving memory and protecting brain cells against damage caused by excitatory amino acids and oxidative stresses. It should be clearly noted herein that such resulting extracts are solely directed toward healthy individuals who wish to optimize their cognizant capabilities, and are not provided as a remedy to cure or alleviate any specific disease or condition.

7. Based upon my review of the cited prior art references, it is my expert opinion that none of those references utilize most or all of the specific procedures indicated in paragraph 5 above. Hence, their resulting products are not the same products as defined in the above-identified patent application. My conclusion is supported by the references themselves which aim their products to cure or alleviate specific diseased states or conditions such as hypertension, allergies, or inflammations.

8. In my professional opinion, the use of such specific procedures such as acid/base dependent separation and extraction plays a vital role in how the resulting product is produced or extracted. The absence of those procedures from the prior art references yield products

which are not the same as the one disclosed in the above-identified patent application.

9. Due to the individualistic nature, character and objective of all the inventions involved, it is my belief that the above-identified patent application should not be anticipated and/or obviated by the '046 patent and the '793 application.

I, Sung-Jin Kim, Ph.D., further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

Respectfully submitted,

Date: May 2, 2003

By: Sung-Jin Kim

Sung-Jin Kim, Ph.D